



Billing Code: 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R08-OAR-2010-0304, FRL 9932-53-Region 8]**

#### **Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana; Correction**

**AGENCY:** Environmental Protection Agency

**ACTION:** Final rule; correction.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Montana on March 17, 2010, August 1, 2011, November 22, 2011, and September 19, 2014. The revisions are to the Administrative Rules of Montana (ARM) and include minor editorial and grammatical changes, updates to citations and references to federal and state laws and regulations, revisions to open burning rules, changes to the process for appealing air quality permits, and providing a process for revocation of air quality permits when owners cannot be found by mail. Also in this action, EPA is correcting final rules pertaining to Montana's SIP. On January 29, 2010, EPA took direct final action to approve SIP revisions as submitted by the State of Montana on January 16, 2009 and May 4, 2009. EPA subsequently discovered an error in our January 29, 2010 direct final action related to "incorporation by reference" (IBR) materials and the associated regulatory text numbering. EPA is correcting this error with today's action. Finally, EPA is updating the Montana nonregulatory provisions table to add carbon monoxide maintenance plans for Billings, Montana, and Great

Falls, Montana approved by EPA on March 30, 2015 and April 1, 2015, respectively. This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2010-0304. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site.

Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION**

**CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Abby Fulton, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, 303-312-6563, [fulton.abby@epa.gov](mailto:fulton.abby@epa.gov).

## **I. Background**

The State of Montana submitted SIP revisions containing amendments to IBR current federal regulations and other material into air quality rules of the ARM. The notice of proposed rulemaking (NPR) published on June 1, 2015 (80 FR 30984) proposed approval of Montana's

submissions with respect to the following: Grammatical changes made to ARM 17.8.102(1), and all revisions of 17.8.802(1)(c) and 17.8.822(9) from the March 17, 2010 submittal; revisions to ARM 17.8.604(1)(a), 17.8.610(2), 17.8.612(10) and (11), 17.8.613(8) and (9), 17.8.614(8) and (9), 17.8.615(6) and (7), and 17.8.763(3) from the November 22, 2011 submission; citations and references to federal law and State rules superseding and replacing all previous versions of ARM 17.8.102(1)(a), 17.8.102(1)(b), and 17.8.102(1)(c) from the September 19, 2014 submittal; and language added to ARM 17.8.102(3) and 17.8.102(4)(a) through (d) from the September 19, 2014 submittal. The reasons for our approval are provided in detail in the NPR.

For reasons explained in the NPR, EPA also provided notice that language in ARM 17.8.102 with a State effective date of October 26, 2007 was in effect between January 16, 2010 and publication of our proposed notice on June 1, 2015. Finally, for reasons explained in our NPR, EPA proposed to correct erroneous amendatory instructions published in the Federal Register on January 29, 2010 (75 FR 4698).

## **II. Response to Comments**

No comments were received on our June 1, 2015 NPR.

## **III. Final Action**

EPA is approving grammatical changes made to ARM 17.8.102(1), and all revisions of 17.8.802(1)(c) and 17.8.822(9) from the March 17, 2010 submittal. We are approving the November 22, 2011 submittal's revisions to ARM 17.8.604(1)(a), 17.8.610(2), 17.8.612(10) and (11), 17.8.613(8) and (9), 17.8.614(8) and (9), 17.8.615(6) and (7), and 17.8.763(3). We are approving the September 19, 2014 submittal's citations and references to federal law and State rules superseding and replacing all previous versions of ARM 17.8.102(1)(a), 17.8.102(1)(b),

and 17.8.102(1)(c). Previous submittals were received on March 17, 2010 and August 1, 2011. We are also approving language added to ARM 17.8.102(3) and 17.8.102(4)(a) through (d) from the September 19, 2014 submittal.

Our action provides notice that language in ARM 17.8.102 with a State effective date of October 26, 2007 was in effect between January 16, 2010 and June 1, 2015. EPA is also adding to table (e) of CAA § 52.1370, “EPA-approved nonregulatory provisions,” to reflect the final EPA approval of carbon monoxide limited maintenance plans for the Billings (80 FR 16571, March 30, 2015) and Great Falls (80 FR 17331, April 1, 2015) carbon monoxide maintenance areas. These additions were inadvertently left out of the table when these maintenance plans were approved. Finally, EPA is correcting erroneous amendatory instructions published in the Federal Register on January 29, 2010 (75 FR 4698).

#### **IV. Incorporation by reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the ARM regarding citations and references to federal and State laws and regulations; open burning rules; air quality permits appeal process; and revocation of air quality permits discussed in section III, *EPA's Review of the State of Montana's March 17, 2010; August 1, 2011; November 22, 2011; and September 19, 2014 Submittals, and CFR Correction*, of the NPR (80 FR 30984, June 1, 2015). EPA is also correcting incorporation by reference errors in our final rulemaking “Air Quality State Implementation Plans; Approvals and Promulgations: Montana; Revised Format for Materials Being Incorporated by Reference” (80 FR 22909, April 24, 2015) to reflect the final EPA approval of carbon monoxide limited maintenance plans for

the Billings (80 FR 16571, March 30, 2015,) and Great Falls (80 FR 17331, April 1, 2015) carbon monoxide maintenance areas. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

## **V. Statutory and Executive Orders Review**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 USC 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this final action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this final action does not impose additional requirements beyond those imposed by state law. For that reason, this final action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, Oct. 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 USC 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 USC 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR

43255, Aug. 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 USC 272 note) because application of those requirements would be inconsistent with the CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, Feb. 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the

U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: August 4, 2015.

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Shaun L. McGrath,  
Regional Administrator,

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Region 8.



40 CFR part 52 is amended to read as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart BB - Montana**

2. Section 52.1370 is amended by:

a. In paragraph (c), revising the table entries for “17.8.102”, “17.8.604”, “17.8.610”, “17.8.612”, “17.8.613”, “17.8.614”, “17.8.615”, “17.8.763”, “17.8.802”, “17.8.822.”

b. In paragraph (e), revising the second table entry under “(2) Cascade County” and the first table entry under “(9) Yellowstone County.”

The revisions read as follows:

**§ 52.1370 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

State citation	Rule title	State effective date	EPA final rule date	Final rule citation	Comments
<b>(i) Administrative Rules of Montana, Subchapter 01, General Provisions</b>					
* * * * *					
17.8.102	Incorporation by Reference	10/16/2009, 06/12/2014	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
* * * * *					
<b>(iv) Administrative Rules of Montana, Subchapter 06, Open Burning</b>					
* * * * *					

17.8.604	Prohibited Open Burning—When Permit Required	04/15/2011	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
* * * * *					
17.610	Major Open Burning Source Restrictions	04/15/2011	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
* * * * *					
17.8.612	Conditional Air Quality Open Burning Permits	04/15/2011	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
17.8.613	Christmas Tree Waste Open Burning Permits	04/15/2011	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
17.8.614	Commercial Film Production Open Burning Permits	04/15/2011	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
17.8.615	Firefighter Training	04/15/2011	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
<b>(v) Administrative Rules of Montana, Subchapter 07, Permit Construction and Operation of Air Contaminant Sources</b>					
* * * * *					
17.8.763	Revocation of Permit	04/15/2011	[insert date of publication]	[insert Federal Register citation]	

			<b>in the Federal Register]</b>		
* * * * *					
<b>(vi) Administrative Rules of Montana, Subchapter 08, Prevention of Significant Deterioration of Air Quality</b>					
* * * * *					
17.8.802	Incorporation by Reference	10/16/2009	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
* * * * *					
17.8.822	Air Quality Analysis	10/16/2009	[insert date of publication in the Federal Register]	[insert Federal Register citation]	
* * * * *					

\* \* \* \*

(e) \* \* \*

<b>Title/subject</b>	<b>State effective date</b>	<b>Notice of final rule date</b>	<b>NFR Citation</b>
* * * * *			
<b>(2) Cascade County</b>			
* * * * *			
Great Falls Carbon Monoxide (CO)— Maintenance Plan, State of Montana Air Quality Control Implementation Plan, Cascade County Carbon Monoxide Limited Maintenance Plan, Chapter 7, Great Falls Carbon Monoxide (CO) Limited Maintenance Plan and the Associated Alternative Monitoring Strategy.	N/A	4/1/2015	80 FR 17331
* * * * *			
<b>(9) Yellowstone County</b>			
Billings Carbon Monoxide (CO)—Maintenance Plan, State of Montana Air Quality Control Implementation Plan, Yellowstone County Carbon	N/A	3/30/2015	80 FR 16571

Monoxide Limited Maintenance Plan, Chapter 56, Billings Carbon Monoxide (CO) Limited Maintenance Plan and the associated Alternative Monitoring Strategy.			
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3. Section 52.1397 is amended by adding paragraph (c)(69) to read as follows:

**§ 52.1397 Original identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(69) Revisions to the State Implementation Plan which were submitted by the State of Montana on January 16, 2009 and May 4, 2009. The revisions are to the Administrative Rules of Montana; they make minor editorial and grammatical changes, update the citations and references to Federal laws and regulations, and make other minor changes to conform to federal regulations.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections 17.8.102 *Incorporation by Reference—Publication Dates*, 17.8.301 *Definitions*, 17.8.901 *Definitions*, and 17.8.1007 *Baseline for Determining Credit for Emissions and Air Quality Offsets*, effective October 24, 2008.

(B) Administrative Rules of Montana (ARM) section 17.8.308 *Particulate Matter, Airborne*, effective February 13, 2009.

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[FR Doc. 2015-20496 Filed: 8/19/2015 08:45 am; Publication Date: 8/20/2015]